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Application No.: 09/821,094
Docket No. 740116-315**REMARKS**

Claims 21-33 are pending. By this amendment, claims 21, 26 and 30 are amended, claim 24 is canceled without prejudice or disclaimer to the subject matter recited therein and claim 33 is added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Applicants have noted that the outstanding Office Action has been designated as a Final Office Action. However, after reviewing the amendments made in the December 10 amendment, Applicants respectfully submit that the finality of the Office Action being appropriate based on Applicants' amendments is incorrect. In particular, Applicants respectfully submit that all of the features of the new independent claims were present in combination with each other in the originally filed claims. Thus, Applicants believe the finality of the outstanding rejection is improper in that no new issues that would require further search were present in the amendment and respectfully request withdrawal of the finality of the outstanding Office Action.

Nevertheless, entry of this Amendment is proper under 37 C.F.R. §1.116 since the Amendment: a) places the application in condition for allowance for the reasons discussed herein; b) does not raise any new issues requiring further search and/or consideration since the Amendment amplifies issues previously discussed throughout prosecution; c) does not present any additional claims without canceling a corresponding number of finally rejected claims; and d) places the application in better form for appeal, should an appeal be necessary. Entry of the Amendment is thus respectfully requested.

The Office Action objects to claim 26 for an informality. Applicants would like to thank the Examiner for the detailed review of the claims and have amended claim 26 in accordance with the Examiner's recommendation. Accordingly, withdrawal of the objection to claim 26 is respectfully requested.

The Office Action rejects claims 21-23 and 26-31 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,173,717 to Lederer (hereinafter "Lederer"). This rejection is respectfully traversed.

Claim 21 recites, *inter alia*, optical proximity switch with a housing, wherein an optics module and a separate electronics module are located in the housing, wherein the

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electronics module has all electronic components necessary for operating of the optical proximity switch.... Claim 30 recites, *inter alia*, optical proximity switch with a housing, wherein an optics module and a separate electronics module are located in the housing, wherein the electronics module has all electronic components necessary for operating of the optical proximity switch....

In the Office Action, the transducer 34 of Lederer is being equated to the electronics module as claimed. However, Applicants respectfully submit that the transducer 34 of Lederer does not satisfy the conditions of claims 21 or 30 for at least the following reasons. Specifically, claims 21 and 30 recite that the optics module and the electronics module are separate. Furthermore, claims 21 and 30 recite that the electronics module has all the electronic components necessary for operating of the optical proximity switch. Lederer discloses an optical assembly comprising a spherically shaped optical module mounted in a housing known as an "electric eye" system. As is evident from Figure 1, and the corresponding description on column 2, lines 48-64:

The optical module 30 comprises a hollow shell 31 which supports in the front surface thereof a light-focusing element 32 and a transducer 34 such as a light-emitting diode or a photodiode, positioned adjacent to the insider surface of shell 31.

Therefore, Applicants respectfully submit the transducer 34 is part of the optics module and not part of an electronics module. Furthermore, Applicants respectfully submit that Lederer does not teach, suggest or disclose separating the optics module and the electronics module, wherein the electronics module has all electronic components necessary for operating the optical proximity switch. Lederer only discloses one optical assembly comprising an optical module, which itself includes some electronic components.

Furthermore, Applicants respectfully submit that the flexible support 40, which is connected to the base portion of frame 10 by a pair of small tabs 46 which fit in a pair of small apertures 48 formed in the base of a frame 10 (column 3, lines 9-14) is not part of the optics module 30. This flexible support 40 contains an engagement device (small tabs 46). Therefore, the optical module 30 does not contain an engagement device by which the optics module is attached in the housing.

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Additionally, Applicants respectfully submit there is no motivation or suggestion in the Lederer patent for the building of an optical proximity switch comprising a receiver, wherein the receiver is a component of the electronics module and further comprising a transmitter, wherein the transmitter is located in the optics module, as recited in claims 22 and 23. In actuality, Lederer only discloses an optical assembly comprising one transducer, such transducer providing either a source of radiation or a radiation sensitive detector upon which incident radiation is focused (see specifically column 2, lines 56-60).

Furthermore, and in relation to claim 30, as already discussed, the claim recited an optical proximity switch having an optics module and a separate electronics module whereas Lederer only discloses an optical assembly comprising an optical module. Therefore, Applicants respectfully submit there is no motivation or suggestion in Lederer to graduate from an optical proximity switch where the optics module is pivotally mounted in the housing to an electronics module, which has all electronic components necessary for operating of the optical proximity switch and is fixed in the housing as claimed.

Accordingly, Applicants respectfully submit that Lederer fails to teach, suggest or disclose each and every feature of claim 21. For at least these reasons, Lederer fails to anticipate claim 21. Furthermore, claims 22-23, which depend directly or indirectly from claim 21, are also not anticipated by the cited reference for at least the reasons outlined above and the additional feature(s) recited therein.

Applicants also respectfully submit for at least these reasons claims 21-23 and 26-31 are not rendered obvious by Lederer. Withdrawal of the rejection of claims 21-23 and 26-31 is respectfully requested.

The Office Action rejects claims 24-25 and 32 under 35 U.S.C. §103(a) as unpatentable over Lederer. This rejection is respectfully traversed.


As address above, Applicants respectfully submit that based on the teachings of Lederer, one of ordinary skill in the art would not have been motivated to combine the features as recited in claims 24-25 and 32. In particular, Applicants respectfully submit that at least based on the distinctions noted above and the additional feature(s) recited therein, claims 24-25 and 32 are not rendered obvious in view of Lederer. Withdrawal of the rejection of these claims under 35 U.S.C. §103(a) is respectfully requested.

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Applicants respectfully submit the application is in condition for allowance.
Favorable reconsideration and prompt allowance are respectfully requested.
Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

By: 

David S. Safran
Registration No. 27,997

NIXON PEABODY LLP
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102
Telephone: (703) 770-9300
Fax: (703) 770-9400

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